

Kentucky Real Estate NEWS

A Publication of the Kentucky Real Estate Commission

To Renew, or Not to Renew? That is the Question!

Believe it or not, renewal time is here again. The deadline to renew your license is **March 31, 2005**. This includes active licensees as well as escrowed licensees. Active licensees renew through their principal brokers. Escrowed licensees renew individually. The fee to renew your license is \$55.00 for brokers and \$50.00 for sales associates. Active licensees are also required to purchase group errors and omissions insurance or to show proof of coverage.

Principal brokers have a lot of responsibility during renewal. A renewal form is mailed to all principal brokers with a list of the licensees affiliated under their companies. Principal brokers need to review the renewal form carefully. If changes need to be made, please follow the instructions that will accompany the renewal form. Principal brokers then collect the renewal fees from each licensee and submit only one check to the Commission for the entire company. However, principal brokers who have a branch office or a multiple office should send separate checks for each branch or multiple office.

Principal brokers also have the option of renewing online this year from

March 1 - 15. Please see page 5 of this newsletter for more details on that exciting new process.

Escrowed licensees will receive a renewal form at their home addresses. Simply fill out the form and mail it in to the Commission. Since we are in the first year of online renewal, licensees in escrow will unfortunately not be able to renew online this year.

Make sure your renewal form is postmarked by March 31, 2005. Any renewals received after the deadline will be assessed a \$100.00 penalty. Renewals received after May 15, 2005 will be assessed a \$200.00 penalty. This is in addition to the renewal fees.

For information regarding 2005/2006 errors and omissions insurance, please reference page 4 of this newsletter.

Again, the deadline to renew is **March 31, 2005**. Renewals must be postmarked by that date in order to be accepted without a penalty.



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Comments from the Chair

by: Sue Teegarden,
Chair



Lately, it seems that one of the “hot topics” at the monthly Commission meetings is unlicensed brokerage. The Commission has been inundated with unlicensed brokerage cases over the last year and we have been taking this matter very seriously. Since this is a crime in Kentucky, the cases are referred for criminal prosecution and/or injunctions are filed in Jefferson Circuit Court. In fact, the Commission disgorged \$39,409.00 in unlicensed brokerage commissions in the last fiscal year.

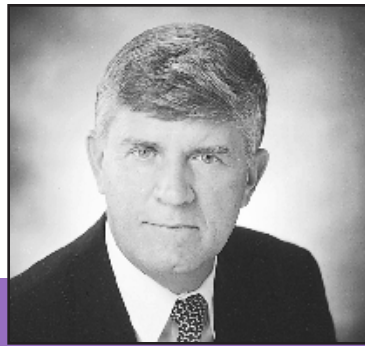
Unlicensed brokerage is much more common in the commercial market as opposed to the residential market. When a piece of commercial property is sold in Kentucky and the licensee involved in the transaction is not licensed in Kentucky, those commissions leave this state instead of going to a Kentucky licensee. Also, when the individual transacting a deal in Kentucky is not licensed in Kentucky, that individual is not mindful or knowledgeable of Kentucky license law and the requirements of this state.

Kentucky is considered a “turf state.” This means that anyone who engages in a real estate transaction in Kentucky must have a Kentucky real estate license. An out-of-state broker must refer any clients to a Kentucky-licensed broker. The Kentucky broker can then pay a referral fee to a broker licensed outside of Kentucky. Real estate licensees may not pay a referral fee to an unlicensed individual in exchange for a referral of a potential client. Also, licensees cannot pay an unlicensed individual for a list of potential buyers and sellers.

With this in mind, we urge licensees to make sure that any individual they are dealing with in a transaction is licensed in Kentucky. There is a licensee database on the Commission website (www.krec.ky.gov) which allows you to check whether an individual is licensed in Kentucky. If you suspect a person is not licensed in Kentucky, please contact the Commission’s legal department. We will investigate the matter and together we can hopefully cut down on the number of unlicensed brokerage cases in Kentucky.

From the Director's Desk

by: Norman E. Brown,
Executive Director



On January 21, 2005, the Commission held a public hearing at the Holiday Inn Hurstbourne. The public hearing was to allow licensees, attorneys, educators, Boards of Realtors® representative and consumers a chance to voice their comments regarding the recent regulation proposals. Let me say, I was so impressed by the overwhelming turnout. Numerous people spoke about the regulation changes, and there were about 125 people in attendance.

The public hearing covered several proposed regulation changes; however, the most talked about were changes related to the inducement changes. All of our regulation changes have been posted on our website in the legal section under "proposed regulations." There is a version with the actual language and a version that is an explanation in laymen's terms.

Input is so important during this process for a number of reasons. First off, licensee input is invaluable. The licensees of this state are the ones who are out in the field dealing with the day-to-day transactions. You have a unique vantage point that allows you to review the pro-

posed changes and ensure that those changes will be workable in a real-life setting. Second, with your input, we can continue to serve the consumer better by listening to your comments and concerns.

Next, we understand that you are busy and that it is difficult to take time out of your day. However, by staying abreast of the Commission's activities you are better informed and you can keep us better informed of the current issues in the industry. If you have a question for the Commissioners, just send it in and we will put it on their monthly agenda. I also encourage you to periodically log on to the Commission's website and review the Commission's monthly agenda. It is placed on the website three days prior to the monthly meeting. While on the website, read the scrolling marque for any recent developments. If we work together, the industry will be better and the licensee population will be more educated.

In closing, I want to let you know that we are here to serve. Our staff is available Monday through Friday and that we pride ourselves on same day service.

Seller's Disclosure Form Could Change

The Commission has proposed several changes to the Seller Disclosure of Property Condition Form. The new form could become effective some time in the next several months. The following changes are being proposed:

- * Inquire about roof repairs
- * Inquire about the existence of mold and other fungi
- * Move property address back to the top of each page
- * Add buyer/seller/date/time initials line at the bottom of the form

The Commission wanted to let licensees know of the proposed changes so that you would not order excess supplies of forms. The new forms will be available on our website under documents and forms. You will be notified if the regulation changes and of the implementation date.

In Memoriam

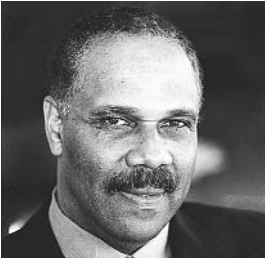
The Commission would like to extend its deepest sympathies to the families and friends of the following licensees who have passed away:

*Steven Burshears
(Crestwood)
&
Marilynn Curtin
(Louisville)*

**Commissioner's
Corner**



Sue Teegarden



Ron Smith



Arvel J. McMahan



Bob Roberts



Lois Ann Disponett

2005/2006 Errors and Omissions Insurance Information

In January, the Commission accepted a two-year proposal from RISC (Rice Insurance Services Company, LLC) for errors and omissions insurance. The insurance carrier for the program is Continental Casualty Company and the premium is \$140.00. The proposal allows licensees to be guaranteed a \$140.00 premium for the next two years.

All active licensees are required to carry errors and omissions insurance. This is a guaranteed issue program which means that all licensees can participate regardless of claim history. This insurance covers licensees for claims arising from a negligent act, error or omissions relating to the rendering of or failure to render professional services as a real estate licensee.

Licensees have the option of selecting the group plan through the Commission or they may shop for errors and omissions insurance on their own. If a licensee chooses to go outside the group plan, they must have their insurance company complete a Private Carrier Certification of Coverage form. The company must have a B+ or better rating by A.M. Best Insurance Rating and must meet the Commission's minimum requirements. This form will be included in the renewal package and can be found online under our Catalog of Documents.

Licensees may also contact RISC if they are interested in purchasing higher limits of coverage. Higher limits are available on an underwritten basis for real estate firms domiciled in Kentucky. All licensees associated with the firm must be insured under the group policy in order to participate. Call RISC for more details. Real estate licensees who also hold a Kentucky appraiser license, will again be

able to purchase an endorsement to cover services performed by an insured real estate licensee as a licensed real estate appraiser. The endorsement cost is \$200.00 and can be obtained directly through RISC (telephone and address below).

Under the group plan, licensees have the option of purchasing additional coverages as separate endorsements to the policy. Each principal broker will receive a form with the renewal mailing that should be filled out and sent in directly to RISC if he or she chooses to purchase additional endorsements. Kentucky law requires that municipal taxes and a Kentucky surcharge must be added to the insurance premium for the group policy and any endorsements. The following are the different endorsements: Regulatory Complaints; Environmental; and Fair Housing Act and Conformity.

RISC is also offering, as an enhancement to the program, higher limits of \$250,000 per claim per insured licensee. Licensees whose real estate activity is at least 75% residential sales and who have had no claims in the past five years may pay an additional premium of \$45 per year to increase limits to \$250,000. Licensees whose real estate activity is less than 75% residential sales and/or who have had claims in the past five years may pay an additional premium of \$60 per year to increase limits to \$250,000.

A brochure and the Endorsement Enrollment/Excess Coverage Forms will be included in the renewal package mailed to each principal broker. If you have additional questions, please contact RISC directly. Their address, phone numbers and website are listed below.

GROUP ERRORS AND OMISSIONS INSURANCE COMPANY
RISC (Rice Insurance Services Company, LLC)
4211 Norbourne Boulevard, Louisville, Kentucky 40207
(502) 897-1876 or Toll Free at 1-800-637-7319
Web Address: www.risceo.com

Introducing Online Renewal for License Year 2005/2006

The day has finally arrived -- principal brokers now have the option of renewing online. Just think, renewal is now only a click away. No more wasted postage. No more worrying about whether your renewal was received. Just get out your credit card, follow the prompts and receive email confirmation once the renewal is processed.

Keep in mind that online renewal is open from **March 1 through 15 ONLY**. After March 15, 2005, all renewals **must** be mailed to the Commission. Below are the requirements and instructions for renewing online.

Basic Requirements:

You will need the following:

Internet access on your computer,

Adobe reader (version 5.0) [if you do not have this version of Adobe reader, you will be given an opportunity to download the reader], Internet explorer (version 6.0), and

Computer resolution should be 800 x 600 or better.

Why Should I Renew Online?

It is simpler and faster,

You will receive an email confirmation when your renewal has been processed,

Credit card payments are accepted and calculations are done for you,

KREC uses a secure website and does not share information with any other entity (even the KREC does not have access to payment accounts), and

95% of the licensees from our online renewal trial said this process was better than the manual process

We Suggest That You NOT Renew Online if:

You are changing the firm name and have a branch office, and one branch has already been renewed, or

You do not want to put credit card/bank information on the Internet due to security reasons

Instructions To Renew Online:

Have the following items available when you are ready to start:

Escrow account number, bank name and address,

Charge card information OR account and routing numbers from checking or savings account for ACH (electronic fund transfer),

Registration code assigned by the KREC found in the top right corner of your renewal form, and

Completed certificate of coverage and alpha list of insureds from private insurance carrier, if applicable

Now that your paperwork is in front of you, log on to www.krec.us using the registration code found in the top right corner of your manual renewal form. It is just that easy!!!

Please refer to the "Help Text" on the screens to answer any questions BEFORE calling the Commission.



Reference Guide for Making Changes to a License

How To Release A Licensee

Sign and date the back of the license and forward it to the KREC. You will also need to send a written notice of the release to the licensee at his or her last known address.

If the licensee wishes to place his or her license in escrow, he or she must send the KREC a signed request along with a \$10.00 check payable to the KREC.

*** Note:** Licensees in Escrow will still pay the annual license renewal fee by March 31st of each year.

How To Accept A Licensee From Another Company

Send a signed letter of acceptance (please specify which office the licensee will be working in if there is more than one office) and a \$10.00 check to the KREC.

If the licensee is not covered under the Commission's errors and omissions policy, a "Private Carrier Certification of Coverage" must accompany the letter of acceptance and check.

*** Note:** Before this transfer can be processed the licensee must have been released from his or her previous principal broker.

How To Change License Information

(such as firm name change, firm address change, change of principal broker or surname change)

Send all affected licenses to the KREC with a signed letter stating what change is to be made.

Attach one check made payable to the KREC at a cost of \$10.00 per licensee. (Example - 3 licensees, send \$30.00 for the change).

*** Note:** If a licensee needs to change a home address, we must be notified in writing; however, there is no charge.

How To Activate A License From Escrow

The licensee must complete the six-hour continuing education class titled the Kentucky Core Course before activation. If a licensee has completed the Core Course within the previous four years, then a regular 6 hour CE class with at least 3 hours in a real estate law topic must be completed in the calendar year before the licensee can become active. The core course will satisfy the licensee's continuing education for the calendar year in which it is taken. After these requirements have been met, the following must be sent to the KREC:

A signed letter of acceptance from the principal broker.

A copy of the course completion certificate.

A \$10.00 check payable to the KREC

Pro-rated errors and omissions (E & O) insurance premium or a "Private Carrier Certification of Coverage" form from your pri-

vate carrier.

*** Note:** To determine the pro-rated amount of (E & O) insurance, please check our website at www.krec.ky.gov, or call the fax-on-demand system (1-888-573-2329), document # 501 for city listing or document # 502 for county listing or contact the KREC.

How A Broker Opens An Office

The broker must send the following to the KREC:

"Opening a New Office Form" available on our website under Documents and Forms or fax-on-demand document #206.

A \$10.00 check payable to the KREC.

A certificate of coverage from a private carrier if not covered under the Commission's errors and omissions policy.

Note: Active brokers must be released by their present broker. Brokers activating from escrow must complete the current year's 6 hours (3 in real estate law) of continuing education. (Core Course requirements must also be met (see previous section), and pay applicable pro-rated errors and omissions insurance.

For your convenience, forms for most of these transactions are available on our website at www.krec.ky.gov. Click on Catalog of Documents and Forms under the General Information Section.

FBI Background Checks Taking 10 - 12 Weeks

This article is for anyone who advises individuals interested in obtaining a real estate license. Under KRS 324.045 and 201 KAR 11:430, all licensure applicants must submit to a criminal record check by the Federal Bureau of Investigation (FBI) prior to submitting paperwork to become licensed. When this law was first passed in 2001, the normal processing time was 4-6 weeks.

The Commission has recently been notified that the FBI background check can now take up to 10 - 12 weeks. Although the Commission requires the background check, we cannot assist applicants in this process. Applicants are advised to contact the FBI directly to check on the status of their background check. If you are instructing individuals on the process of obtaining a real estate license, the first thing you need to tell them is to apply for their background checks as soon as possible. If you advise applicants up-front of the turnaround time, they will not be as likely to either put off applying for a background check or be surprised by the amount of time it takes to get it back. Thank you for your cooperation.

General Counsel Harris Revises Law Book

General Counsel Lee Harris recently completed the revision of "Kentucky Real Estate Professionals and the Law," originally drafted by Stephen L. Frank in 1986. A complimentary copy was sent to all active brokers, all Boards of Realtors® and all approved real estate schools. The book has been a long time coming, since the original book was over 18 years old.

The book is a wonderful resource tool, and the Commission has already received positive feedback. We hope that brokers take the time to sit down and read the book. It is full of valuable information and is written in a very easy to understand format.

The Commission is happy to announce that the entire book is also available on the Commission's website (www.krec.ky.gov). It is located in the Legal Information Section. So, if you did not receive a book or if you left your book at home, it is now available online 24 hours a day.

Reviewing the Continuing Education Requirements Save Yourself Time and Money!!

By: Linda Poliskie, Education Director

If you were licensed in Kentucky on or after June 19, 1976 and are actively engaged in the practice of real estate, then you are required to complete six hours of continuing education each calendar year, with three of those hours in an approved legal topic.

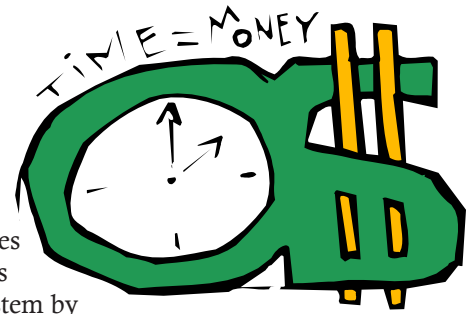
Kentucky Core Course -- Once every four years, you are required to take the Kentucky Core Course. This course has been around since 1999, but some licensees still do not fully understand what this course is. It is a six-hour course developed by the Commission and covers the federal and state laws pertaining to real estate. It is also the required course for someone who wishes to reactivate an escrowed license. When new laws or regulations are passed, this course is revised to reflect those changes. **No other course or hours may be substituted for the Kentucky Core Course.**

To implement the program initially, licensees were assigned their year of compliance based upon their birth month. The KREC computer system tracks compliance

for all licensees and assigns compliance dates to new licensees entering the system by

looking at the person's birth month and where we are within the current Core Course cycle. The Commission will send a postcard reminder in January to let you know when it is your year to complete that course. Some licensees have taken this course more than once during the four year cycle, just for the legal review!!

Can I take something else? If you are taking a 48 hour/three credit hour real estate class in preparation for the broker's examination, that course will fulfill the continuing education requirement for that calendar year, provided it is not your year to take the Core Course. When you finish the course, just send us a copy of the college transcript or completion certificate with a note asking



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EXAMPLES OF CONTRACTUAL CLAUSES

By: Lee B. Harris, General Counsel

Although a real estate agent may not legally draft a contract, he or she has the responsibility of filling out a pre-printed sales contract in a manner that protects the interests of the client. When filling out a contract, licensees should be careful not to practice law by drafting too much legal language into an addendum or purchase contract. Below are a few examples for your reference. There are additional clauses on our website and in the newly revised text book.

"AS IS" CLAUSE

This clause could be used when the seller wants to sell the property in "as is" condition. The seller must disclose any known defects, as in any other type of sale, but can sell the property in "as is" condition and thereby refuse to make any repairs.

The seller is selling this property in "as is" condition. The seller has disclosed all known defects with the property in the Seller's Disclosure Form. The buyer has the right to make any and all inspections, but the seller will not make or pay for any repairs, corrections or replacements.

AUTHORIZATION FOR AGENT TO SIGN ON BEHALF OF CLIENT

If your client is out of town or cannot physically sign the paperwork for some reason, you may obtain a written authorization from that client to sign on his or her behalf. This should be done sparingly. (Make sure to obtain the client's original signature as soon as possible.)

The _____ (buyer/seller), _____ (name here), hereby gives authority to his or her agent, _____ (name here) to sign the _____ (document here -- i.e., purchase contract) for the property located at _____ on behalf of the _____ (buyer/seller) and to bind the _____ (buyer/seller) to that contract. The _____ (buyer/seller) will personally sign the document upon _____ (event here - returning to town, receiving a copy in the mail, etc.)

BACK-UP OFFER

This clause can be used whenever there is already an accepted purchase contract on a piece of property. The language is taken from 201 KAR 11:250, Section 3, which outlines the required language for back-up offers in Kentucky. The first clause binds the buyer to the contract no matter what. The second clause gives the buyer an out if he or she finds another property.

This offer is submitted as a back-up offer, which means the property is subject to a previously-accepted offer which has priority over this offer.

or

This offer is submitted as a back-up offer, which means the property is subject to a previously-accepted offer which has priority over this offer. If this offer is accepted, the buyer retains the right to continue looking for other acceptable properties. If the buyer finds another acceptable property before this back-up contract becomes the priority offer, the buyer will deliver notice to the seller within _____ hours. Both parties agree to sign a mutual release, returning the earnest money deposit to the buyer. Time is of the essence as to this provision.

CONTINGENCY FOR SALE OF BUYER'S HOME

If the buyer has not sold his or her home and wants to make the contract contingent upon that sale, you may use the following clause. (Note: If the buyer has a home to sell and cannot qualify for financing without selling that home or obtaining a bridge loan, you should make the contract contingent upon such.)

If Buyer's property is currently listed:

This agreement is contingent upon the sale of Buyer's property located at _____ on or before ____:____ o'clock ____m. on the _____ day of ____, 200__. Buyer shall use his or her best efforts to procure an acceptable purchase contract for this property. Buyer shall then deliver notice to the seller that said purchase contract has been procured. If no such purchase contract is procured within the above-mentioned time frame, this contract will become null and void. In that event, both parties agree to sign a mutual release, returning the earnest money deposit to the buyer. Time is of the essence as to this provision.

Buyer's property is currently listed exclusively with _____.

or

If Buyer's property is not currently listed:

Buyer will list his or her property with a licensed real estate agent or broker by the ____ day of _____, 200__.

Notice of this listing will be given to the seller's agent by the ____ day of _____, 200__, or this agreement will be voidable at the option of the seller by giving written notice to the buyer or buyer's agent. Buyer shall use his or her best efforts to procure an acceptable purchase contract for this property. Buyer shall then deliver notice to the seller that said purchase contract has been procured. If no such purchase contract is procured within the above-mentioned time frame, this contract will become null and void. In that event, both parties agree to sign a mutual release, returning the earnest money deposit to the buyer. Time is of the essence as to this provision.

CONTRACTUAL CLAUSES

Continued from Page 8

DISCLOSURE OF AN INTEREST-BEARING ESCROW ACCOUNT AND TO WHOM THE INTEREST WILL ACCRUE

Kentucky law allows you to place earnest money in an interest-bearing account so long as you disclose in writing to whom the interest will accrue. Please see KRS 324.111(2). You can use the following clause if the parties request the money to be placed into an interest-bearing account.

The buyer and seller hereby authorize _____ (broker name here) to place the earnest money deposit in an interest-bearing escrow account at _____ (bank here). The interest will accrue to the _____ (buyer/seller/broker).

DISCLOSURE OF STATUS AS A LICENSEE

If you are purchasing or selling a property, you must disclose your status as a licensee to comply with KRS 324.160(4)(e). You may use the following clause.

_____ (insert name of licensee) is a (buyer/seller/investor) in this transaction. _____ (insert name) is a licensed real estate (agent/broker) in the State of Kentucky and is representing _____ (himself/ herself/ the buyer/ the seller/ both parties) in this transaction.

If you are not acting in a representative capacity (such as selling your own property without a listing or buying a piece of property without accepting a commission), but only as an individual, you may use this language.

_____ (insert name of licensee) is a (buyer/seller/investor) in this transaction. _____ (insert name) is acting in an individual capacity only and is not representing (himself/ herself) or any other party in this transaction.

FIRST RIGHT OF REFUSAL ("KICK-OUT CLAUSE")

If the buyer wants to make the contract contingent upon the sale of the buyer's home, you may use the following language to give the buyer the ability to perform within a certain time frame.

The buyer and seller agree that the seller retains the right to keep this property on the market and to accept other offers on his or her property. If the seller accepts another offer, the seller must notify the buyer or buyer's agent by _____ (phone, fax, in person) at _____ (address, fax number, phone number).

The buyer will have _____ (time frame) from receipt of seller's notice to remove the financing and sale of home con-

tingencies and to provide evidence of his or her ability to perform the terms of the agreement (i.e., confirmation from the bank as to financing, proof of bridge loan, accepted purchase contract on the buyer's property). If the buyer cannot supply such evidence, then this agreement is voidable at the option of the seller. If the seller voids the contract, then the earnest money will be returned to the buyer within ____ days. Time is of the essence as to this provision.

UNDISCLOSED OR "STRAW" PURCHASER

The following clause could be used in situations in which the buyer does not want to be revealed to the seller. The first clause could be used when there is a "straw" buyer standing in for the actual buyer. The second clause could be used when the buyer just does not want to be disclosed. If you are going to sign on behalf of the buyer in scenario number 2, the Commission advises you to obtain a power of attorney through an attorney and specifically outline the duties the buyer has authorized you to perform.

The buyer is acting on behalf of an undisclosed purchaser. The buyer has written authority from the undisclosed purchaser to enter into this contract on behalf of the undisclosed purchaser and to bind the undisclosed purchaser to this agreement, if accepted.

or

The buyer wishes to remain anonymous. The agent representing the buyer hereby declares that he/she has a written agreement from the buyer in which the buyer promises to be bound by the terms and conditions of this contract, if accepted. This agreement also authorizes the agent representing the buyer to sign on behalf of the buyer and to bind the buyer to this contract, if accepted. This agreement is hereby made a part of this contract by addendum and will be attached to the contract upon acceptance. The seller hereby acknowledges that he/she accepts this contract without knowledge of the buyer's identity.

WAIVER OF RIGHT TO HOME INSPECTION

This clause should be used only after you have explained to your clients the need for and benefit of a home inspection or a termite/wood-destroying insect inspection and they have refused to or waived their rights to obtain one.

The buyer hereby acknowledges that he or she has been advised by his or her real estate agent, _____ (name here), to obtain a _____ (whole-house home or termite or other wood-destroying insect) inspection. The buyer hereby waives his or her right to such an inspection against the advice of his or her real estate agent or broker and agrees to hold harmless the real estate agents or brokers involved in this transaction for any repairs or defects that could have been discovered by such an inspection.



Disciplinary Actions



Susan Burtoft (Bowling Green)
Case No. 03-0177

Violation: Ms. Burtoft stipulates to a violation of KRS 324.160 (4)(j) for being convicted of a felony while holding a Kentucky real estate license.

Disposition: Ms. Burtoft agrees to have her license suspended for a period of one-and-half (1.5) years. Due to the pending felony charges, Ms. Burtoft voluntarily placed her license in escrow on or about November 14, 2003. This one year escrow status will serve as the first year of her suspension. She will be suspended for an additional six (6) months from the date of the Commission's Final Order. After that date, she may apply for reinstatement.

Upon reinstatement, her license will be on probation for a period of two (2) years. During the probationary period, Ms. Burtoft will allow the Commission, upon request, to review any and all of her real estate files. Ms. Burtoft agrees that she will not apply for a real estate broker's license in this state for a minimum of five (5) years from the date of the Final Order. If she decides to seek a broker's license, Ms. Burtoft will be required to appear before the Commission to determine whether she may proceed with such licensure.

Rebecca A. McIntyre
(Louisville) Case No. 04-0058

Violation: Ms. McIntyre stipulated to a violation of KRS

324.160(4)(u), specifically, 201 KAR 11:121 and 201 KAR 11:400, for failing to act in accordance with a fiduciary standard toward a client and for improper presentation and completion of an Agency Disclosure Form in a transaction involving dual agency.

Disposition: Ms. McIntyre agrees to pay a fine in the amount of two hundred fifty dollars (\$250.00); attend and successfully complete the Commission's six-hour Core Course; attend a three (3) hour contract law course; and attend a three (3) hour agency course. These hours shall be in addition to the six (6) hours of continuing education that are already required by law.

Tamara L. Warner (Cadiz)
Case No. 03-0103

Violation: Ms. Warner stipulated to a violation of KRS 324.160(4)(v) for improperly stating to a listing agent that an offer had been accepted.

Disposition: Ms. Warner shall pay a fine in the amount of one hundred fifty dollars (\$150.00) and shall successfully complete six (6) hours of continuing education, in addition to the hours already required by law.

Mitzi Sears (Nancy) Case No. 04-0071

Violation: Ms. Sears stipulated to a violation of KRS 324.160 (4)(u) for violating 201 KAR 11:105 for publicly promoting a piece of property without a

valid listing agreement and 201 KAR 11:250 for failing to obtain the required signatures on a listing agreement.

Disposition: Respondent Sears agreed to attend six (6) hours of continuing education, in addition to hours already required by law and to pay a fine in the amount of two hundred dollars (\$200.00) and to accept a formal reprimand.

Department of Justice Investigating KY Real Estate Commission's Inducement Law

The Commission received a notice from the Department of Justice in January of 2005, informing us that an investigation is being conducted concerning the Commission's laws prohibiting inducements and rebates. The Department of Justice would not disclose who filed the complaint. The Department of Justice informed us that a "subpoena" for documents will be forthcoming and that the Commission cannot shred, destroy or throw away any documents that might be pertinent to the investigation. If the Department of Justice finds the law to be an antitrust violation, we understand that they have several options, such as entering into a Consent Decree or filing a lawsuit to overturn the law. We will keep you informed of the progress of the investigation.

Reviewing C. E. Requirements

Continued from Page 7

that you be given continuing education credit.

Can I take my CE in another state?

Yes, in some states. The Commission will accept real estate courses from Alabama, Georgia, Iowa, Missouri, Nebraska, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Virginia and West Virginia. Because of specific requirements in their laws, Indiana and Illinois courses are not acceptable.

All out-of-state classes must be three hours in length and meet Kentucky's content guidelines. The Commission does not accept state-specific license law classes like the Ohio and Tennessee Core Courses, or courses that teach basic computer skills (Word, Excel, etc.), or personal development, business or taxation courses. The Commission reserves the right to verify all information submitted from an out-of-state agency and acceptance is at the discretion of the Commission. Send the certificates in right away. Do not wait until the end of the year and run the risk of having a course denied because it does not meet Kentucky's content guidelines.

Ethics Requirements: The ethics class is required for all members of the National Association of REALTORS® (NAR) once every four years, in order to retain an active membership in the organization. Ethics is NOT MANDATED OR REQUIRED by the Commission to maintain an active license. The NAR Code of Ethics is NOT a law class, since its guidelines apply only to those individuals who are members of the national, state and local associations.

Ethics courses can be submitted to

the Commission for continuing education credit approval, and many providers have done so. The NAR, for example, did not seek approval for their online ethics course, thus the Commission is unable to award credit to any licensee who completed that course. While it will fulfill the NAR mandate, it does not provide credit to maintain an active real estate license with the Commission.

All continuing education courses must go through an application process outlined in the regulations before final approval can be granted by the Commission. Both the course content and the instructor must be approved. The KREC website provides a list of all providers who have had courses approved for continuing education credit, but just because the provider is listed, that does not mean that every course they offer is approved for credit. Always be sure to ask your provider or check their brochures to determine whether the course has been approved by the Commission and whether the course provides elective or legal credit.

Follow these tips to make your continuing education less stressful:

Hold on to your completion certificate-it is your proof of attendance and a record of what you have completed for the year.

If you hate crowds and bad weather, consider taking your classes earlier in the year.

Make sure to use your full legal name when registering for a class and to notify the Commission in writing if your residence address changes. That is where any CE reminders and delinquency notices will be sent.

Abide by the provider's "House Rules" and respect all of the individuals involved with your class. Please arrive early. A ten minute break is provided during each 50 minutes of instruction and generally there is a one hour break for lunch. If you

arrive more than ten minutes late in the morning or return from lunch or a break more than ten minutes late, the providers are required to deny you entrance to the classroom and credit for the session. Do not lose time and money by showing up late!!

Coming soon!! During the next fiscal year, we will be working with our computer analysts on some changes to the website, so that you can track the posting of your own continuing education records, check to see when you are due to take the Kentucky Core Course again, and determine whether a course or provider is approved.

If you have questions, need a list of approved continuing education providers or a Kentucky Core Course schedule, first check the education section of the website -- www.krec.ky.gov. If you do not find the answer there, contact the Education Department by phone (502-425-4273 or 888-373-3300) or email: (linda.poliskie@ky.gov) or (sarah.west@ky.gov). We will be happy to help you!!

Attention Principal Brokers

When a licensee requests to be released from your company, it is your responsibility to IMMEDIATELY sign the back of the license and mail it to the Commission. Principal brokers are not permitted to hold up a release for any reason.

Also, if the Commission requests the return of a license, you must immediately comply with that request. A principal broker who fails to return a license to the Commission upon request and in a timely manner can be found in violation of KRS 324.312 and 324.160 (4) (v) and could face disciplinary action.

Kentucky Real Estate Commissioners and Staff



Pictured left to right, **Front row:** Bob Roberts, Louis Carter, Sue Teegarden, Ron Smith, Lois Ann Disponett, Dianna Rogers, Jerry McMahan, **Second row:** Norman Brown, Melissa Kime, Linda Poliskie, Michelle Gary, Sarah Chandler, Sarah West, Denise Wade, Kim Brewer, Mary Stevenson, Lee Harris and Shelly Saffran

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The Kentucky Real
Estate Commission
will be closed on:

March 25, 2005
(Good Friday 1/2 Day)
&
May 30, 2005
(Memorial Day)